IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G.BIKSHAPATHY

WRIT PETITION Nos.17359, 17367, 17577, 17562, 22562, 22578, 22594, 22608 OF 1999

WRIT PETITION No : 17359 of 1999

Between:

1 The Managing Director,

Hyderabad Metro Water Supply Sewerage Board,
Khairtabad, Hyderabad.
2 The Deputy Conservator of Forests,

Plantation Cell Division,

Hyderabad Metro Water Supply Sewerage Board,
Goshmahal, Hyderabad.
3 The Forest Range Officer-II,

Plantation Cell Division,
Hyderabad Metro Water Supply & Sewerage Board,

Goshmahal, Hyderabad.

..... PETITIONERS

AND

1 Smt. Jangilamma, W/o Narsimha Reddy,
C/o Raj Reddy, H.No. LIG 467, KPHB Colony,

Kukatpally, Hyderabad.
2 The Additional Industrial Tribunal-Cum-Additional Labour

Court, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or orders more particularly one in the nature of Writ of Certiorari call for the records and set aside the I.D. No. 14 of 1998 award Dt. 19/4/1999 on the file of 2nd Respondent as published in G.O. Rt. No. 1097, Dt. 14/6/1999 by allowing this Writ Petition and pass such other or further orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioners: MR.P.DAMODAR REDDY

Counsel for the Respondent No.2: GP FOR LABOUR

WRIT PETITION NO : 17367 of 1999

Between:

1 The Managing Director,

Hyderabad Metro Water Supply & Sewerage Board,
Khairtabad, Hyderabad.

2 The Deputy Conservator of Forests,

Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,
Goshmahal, Hyderabad.

3 The Forest Range Officer-II,

Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,
Goshmahal, Hyderabad

..... PETITIONERS

AND

1 Md. Khaja, S/o Sardar,
C/o K Raj Reddy, H.No. LIG 467, KPHB Colony,

Kukatpally, Hyderabad.

2 The Additional Industrial Tribunal-cum-Additional Labour

Court, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

pass an order or orders more particularly one in the nature of Writ of Certiorari call for the records and set aside the I.D. NO. 13 of 1998 award Dt. 16/4/1999 on the file of the 2nd respondent as published in G.O. Rt. No. 1096 dt. 14/6/1999 by allowing this Writ Petition and pass such other or further orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioners: MR.P.DAMODAR REDDY

Counsel for the Respondent No.2: GP FOR LABOUR

WRIT PETITION NO : 17562 of 1999

Between:

1. The Managing Director,

Hyderabad Metro Water Supply & Sewerage Board,

Kairatabad, Hyderabad.

2. The Deputy Conservator of Forests,

Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,

Goshamahal, Hyderabad.

3. The Forest Range Officer-II,

Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,

Goshamahal, Hyderabad.

..... PETITIONERS

AND

1. S.K.Moinuddin, S/o.Shaik Ahmed,

C/o.K.Rai Reddy, H.No.LIG 467,

KPHB Colony, Kukatpally, Hyderabad.

2. The Additional Industrial Tribunal-cum-Additional Labour

Court, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or orders more particularly one in the nature of Writ of Certiorari call for the records and set aside the I.D.No.11 of 1998 award Dt.13th April, 1999 on the file of 2nd respondent as published in G.O.Rt.1094 Dt:14-06-1999 by allowing this Writ petition, and pass such other or further orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioners: MR.P.DAMODAR REDDY

Counsel for the Respondent No.2: GP FOR LABOUR

WRIT PETITION NO : 17577 of 1999

Between:

1 The Managing Director,

Hyderabad Metro Water Supply & Sewerage Board,
Kairatabad, Hyderabad.

2 The Deputy Conservator of Forests,

Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,
Goshamahal, Hyderabad.

3 The Forest Range Officer-II,

Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,
Goshamahal, Hyderabad.

..... PETITIONERS

AND

1 Sri Malla Reddy, S/o. Muthi Reddy,

C/o.K.Raj Reddy,
H.No.LIG 467, HB Colony,
Kukatpally, Hyderabad.

2 The Additional Industrial Tribunal-cum-Additional

Labour Court,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or orders more particularly one in the nature of Writ of Certiorari call for the records and set aside the I.D.No.12 of 1998 award Dt. 17th April, 1999 on the file of 2nd Respondent as published in G.O.Rt.1095 Dt.14-6-99 by allowing this Writ petition, and pass such other or further orders as this Hon'ble Court may deems fit and proper.

Counsel for the Petitioners: MR.P.DAMODAR REDDY

Counsel for the Respondent No.2: G.P. FOR LABOUR

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WRIT PETITION NO : 22562 of 1999

Between:

Malla Reddy, S/o.Sri Muthi Reddy,

Aged about 40 years, R/o.H.No.LIG 367, KPHB Colony,

Kukatpally, Hyderabad.

..... PETITIONER

AND

1. The Additional Industrial Tribunal-Cum-Additional

Labour Court, rep. by its Presiding Officer, I Floor,

Chandravihar Buildings, M.J.Road, Hyderabad.

2. The Managing Director,

Hyderabad Metro Water Supply & Sewerage Board,

Khairatabad, Hyderabad.

3. The Deputy Conservator of Forests,

Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,

Goshamahal, Hyderabad.

4. The Forest Range officer-II,

Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,

Goshamahal, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or issue a Writ particularly one in the nature of Certiorari and quash the Award dated 17-04-1999 in I.D.No.12/98 after calling for the records on the file of the Additional Industrial Tribunal-Cum-Additional Labour Court, Hyderabad, to the extent of not granting the backwages, continuity of service and other attendant benefits and consequently direct the management to grant continuity of service, backwages and all other attendant benefits on par with the juniors and to pass such other order or orders as his Hon'ble Court may deem fit and proper.

Counsel for the Petitioner: MR.B.G.RAVINDER REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent Nos. 2 to 4: P. KISHORE RAO (SC FOR HMWSSB)

WRIT PETITION NO : 22578 of 1999

Between:

Smt.Jangilamma, W/o. Narsimha Reddy,
R/o. H.No.L.I.G. 367, K.P.H.B.Colony,
Kukatpally, Hyderabad.

..... PETITIONER

AND

1 The Additional Industrial Tribunal-

Cum-Additional Labour Court, rep. by its Presiding Officer,
1st Floor, Chandravihar Buildings, M.J.Road, Hyderabad.

2 The Managing Director,
Hyderabad Metro Water Supply & Sewwrage Board,

Khairabad,

Hyderabad
3 The Deputy Conservation of forests,
Plantation Cell Division,

Hyderabad Metro Water Supply & Sewwrage Board,
Goshamahal, Hyderabad.
4 The Forest Range Officer-II,
Plantation Cell Division,

Hyderabad Metro Water Supply & Sewwrage Board,
Goshamahal, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass order or issue a Writ particularly one in the nature of Certiorari and quash the award dt.19.4.1999 in I.D.No.14/98 after calling for the records on the file of the additional Industrial Tribunal-Cum-Additional Labour Court, Hyderabad, to the extent of not granting the back wages, Continuity of service and other attendant benefits and consequently direct the management to grant continuity of service, back wages and all other attendant benefits on par the junior and to pass such other order or orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioner: MR.B.G.RAVINDER REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent Nos. 2 to 4: P. KISHORE RAO (SC FOR HMWSSB)

WRIT PETITION NO : 22594 of 1999

Between:

Md.Khaja, S/o. Sardar,
R/o.H.No.L.I.G.367, K.P.H.B.Colony,
Kukatpally, Hyderabad.

..... PETITIONER

AND

1 The Additional Industrial Tribunal-

Cum-Additional Labour Court, rep. by its Presiding Officer,
1st Floor, Chandravihar Buildings, M.J.Road,
Hyderabad.
2 The Managing Director,
Hyderabad Metro Water Supply & Sewerage Board,

Khairatabad, Hyderabad.
3 The Deputy Conservator of Forests,
Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,

Goshamahal, Hyderabad.
4 The Forest Range Officer-II, Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,
Goshamahal, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or issue a Writ particularly one in the nature of Certiorari and quash the Award dt.16.4.99 in I.D.No.13/98 after calling for the records on the file of the Additional Industrial Tribunal-Cum-Additional Labour Court, Hyderabad, to the extent of not granting the back wages, Continuity of service and other attendant benefits and consequently direct the management to grant continuity of service, back wages and all other attendant benefits on par with the junior and to pass such other order or orders as this Hon'ble Court may deem fit and just.

Counsel for the Petitioner: MR.B.G.RAVINDER REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent Nos. 2 to 4: P. KISHORE RAO (SC FOR HMWSSB)

WRIT PETITION NO : 22608 of 1999

Between:

S.K.Moinuddin, S/o.Shaik Ahmed,
R/o. H.No.L.I.G. 367, K.P.H.B.Colony,
Kukatpally, Hyderabad.

..... PETITIONER

AND

1 The Additional Industrial Tribunal-

Cum-Additional labour Court, rep. by its Presiding Officer,
1st Floor, Chandravihar Building, M.J.road,
Hyderabad.
2 The Managing Director,
Hyderabad Metro Water Supply & Sewerage Board,

Khairatabad, Hyderabad.
3 The Deputy Conservator of Forests, Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board,
Goshamahal, Hyderabad.
4 The Forest Range Officer-II, Plantation Cell Division,

Hyderabad Metro Water Supply & sewerage Board,

Goshamahal, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or issue a Writ Particularly one in the nature of Certiorari and quash the award dt.13.4.99 in I.D.No.11/98 after calling for the records on the file of the Additional Industrial Tribunal-Cum-Additional Labour Court, Hyderabad, to the extent of not grating the back wages, continuity direct the management to grant continuity of service, back wages and all other attendant benefits on par with the juniors and to pass such other order or orders as this Hon'ble Court may deem fit and just.

Counsel for the Petitioner: MR.B.G.RAVINDER REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent Nos. 2 to 4: P. KISHORE RAO (SC FOR HMWSSB)

The Court made the following:

COMMON ORAL ORDER:

W.P.Nos. 17562, 17359, 17367, 17577 of 1999 and W.P.Nos. 22594, 22578, 22562, 22608 of 1999 arise out of the award dated 13-4-1999 passed by the Labour Court in which termination of the workmen was challenged.

2. The Hyderabad Metro Water Supply & Sewerage Board employed the respondents-workmen as Man Mazdoors and their services were terminated on 31-08-1991. Challenging the said termination, the workmen raised I.D. Nos. 11, 12, 13 and 14 of 1998. The learned Tribunal, after adjudicating the matter based on the evidence available on record, recorded a finding that the termination was in violation of Section 25-F of the Industrial Disputes Act (for short the Act) as they completed more than 240 days of service and the provisions contained in Section 25-F of the Act are not followed and accordingly passed an award on 30-4-1999 directing the Management to reinstate the workmen into service without continuity of service, attendant benefits and back wages. Assailing the said order, the Management filed W.P.No.17562, 17359, 17367 and 17577 of 1999. However, aggrieved by the award to the extent of denial of continuity of service, attendant benefits and back wages, the workmen filed W.P.Nos. 22594, 22578, 22502 and 22608 of 1999.

3. The learned counsel for the Management submits that the Award of the Tribunal is wholly illegal and without jurisdiction. She would further contend that the respondents-employees were only working on casual basis as Man Mazdoors and therefore they cannot challenge the order of termination effected by the Management. The Tribunal found basing on the evidence of the Management witness himself that the juniors to the respondents were retained and continuing in service and though the workmen were seniors to them, they were sought to be terminated and therefore it is in violation of mandatory provisions contained in Section 25-F of the Act. The following is the extract from the award of the Tribunal:

> "It is manifest from the evidence of M.W.1 that the petitioner has worked for 10 months from July, 1987 to April, 1988 and the N.M.R. scheme was disbanded from May, 1988 and consequently, the respondents have stopped the petitioner from working as N.M.R. If the N.M.R. scheme was disbanded from May, 1988 how did the respondents continue the other workmen who were admittedly appointed either along with the petitioner or later in point of time than the petitioner and why did not they (respondents) continue the petitioner as N.M.R. M.W.1 did not explain this situation and the reasons are not made known. Respondents should have explained the reasons for continuing those N.M.R. workmen who were juniors to the petitioner, beyond April, 1988 and regularized them later in service while stopping the petitioner from working as N.M.R. Respondents did not file any record to show that the N.M.R. scheme was disbanded from May, 1988. They did not explain how could they continue those 351 and 37 workmen, most of whom were juniors to the petitioner as N.M.R. workmen and regularized later and why did they stop the petitioner from continuing as N.M.R. and deprived him of his legitimate right to continue as N.M.R. worker.
>
> Therefore, for the reasons and circumstances mentioned above, I hold that the petitioner was terminated from service after working continuously for more than 240 days in one year and therefore I hold further that he is entitled for reinstatement into service".

4. From the aforesaid contents of the award, I find that the Labour Court has recorded a categorical finding based on the evidence available on record and it is not for this Court to re- appreciate the evidence sitting under Article 226 of the Constitution of India and come to a different conclusion. Moreover, the Tribunal is clothed with appropriate jurisdiction to decide the issue and I do not find any jurisdictional error or any error apparent on the face of the record.

5. Coming to the question of relief granted by the Tribunal against which the Writ Petitions were filed by the workmen, it is to be noted that the Tribunal has granted reinstatement without continuity of service, attendant benefits and back wages. It is the discretion of the Tribunal which could be exercised in the facts and circumstances of each case and continuity of service, attendant benefits and back wages is not an automatic relief that could be granted by the Tribunal consequent on the illegal termination. Since the award passed by the Tribunal granting discretionary relief, I am not inclined to interfere with the said finding of the Tribunal.

6. Accordingly, both the sets of Writ Petitions filed by the Management as well as the workmen are dismissed. No costs.

7. However, the learned Counsel for the workmen submits that when the order itself is void, being contravention of Section 25-F of the Act, the workmen ought to be given continuity of service and other benefits. I cannot accept this contention as the Tribunal in its discretion granted the aforesaid relief. However, if the Management finds that some of the workmen are continuing in service, who are juniors to the petitioners-workmen, it is always open for the management to rectify the anomaly and grant relief to them, if they are so entitled.

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(G. BIKSHAPATHY, J.)

24-09-2004

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Presiding Officer, The Additional Industrial Tribunal- Cum-Additional Labour Court, Hyderabad.

2 The Managing Director, Hyderabad Metro Water Supply & Sewerage Board, Khairatabad, Hyderabad.

3 The Deputy Conservator of Forests, Plantation Cell Division,

Hyderabad Metro Water Supply & Sewerage Board, Goshamahal, Hyderabad.

4 The Forest Range Officer-II, Plantation Cell Division,

Hyderabad Metro Water Supply & sewerage Board,
Goshamahal, Hyderabad.

5. 2 CCs for Government Pleader for Labour, High Court Buildings (OUT).

6. 2 CD copies.